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16 UNITED STATES DISTRICT COURT
17 NORTHERN DISTRICT OF CALIFORNIA
18 OAKLAND DIVISION
19

20 ORACLE AMERICA, INC.,

21 Plaintiff,

22 v.

23 MYRIAD GROUP AG,

24 Defendant.

CASE NO. 10-CV-5604-SBA

**STIPULATION AND REQUEST TO
MODIFY DEADLINES SET FORTH IN
ORDER SETTING INITIAL CASE
MANAGEMENT CONFERENCE AND
ADR DEADLINES**

On December 10, 2010, Oracle America, Inc. (“Oracle”) filed the instant complaint against Myriad Group A.G. (“Myriad”). Later that day, Myriad filed a complaint against Oracle in the United States District Court, District of Delaware (the “Delaware Action”). *See Myriad Group AG v. Oracle America, Inc.*, Case No. 10-1087 (D.C. Del. Dec. 10, 2010). Oracle believes that the actions are related and on January 3, 2011, filed a motion pursuant to the first-to-file rule and 28 U.S.C. § 1404(a) in the Delaware District Court requesting that the District of Delaware dismiss Myriad’s Complaint with leave for Myriad to replead it in this action, or transfer the Delaware Action to this Court for consolidation with this action as soon as practicable. Also on January 3, 2011, Myriad filed in this action a motion to dismiss Oracle’s Complaint and/or quash service of process alleging the service of process is invalid or, in the alternative, for an order staying this action and compelling arbitration on the ground that Oracle’s claims are governed by an arbitration clause. On January 4, 2011, Myriad filed a motion in the Delaware action, seeking a preliminary injunction ordering Oracle to provide access to some of the materials subject to the disputed licenses during the pendency of the litigation.

The parties believe a resolution of Oracle’s venue motion and Myriad’s motion to dismiss or stay this California action are appropriate to define the issues to be tried in this Court and the scope of discovery before proceeding with the matters covered by this stipulation. For these reasons, the parties, pursuant to N.D. Cal. Civil L.R. 7-12 and 16-2, hereby stipulate and respectfully request that the Court enter an order modifying the initial case management conference schedule and ADR deadlines as follows:

1. The parties need not take any of the following actions, which currently are required on or before January 11, 2011, until the later of (i) 14 days after this Court’s decision on Myriad’s Motion to Dismiss or Stay this action; and (ii) 14 days after the Delaware court’s decision on Oracle’s motion to dismiss or transfer the Delaware action:

- (a) Meet and confer regarding initial disclosures, early settlement, ADR process selection, and a discovery plan;
- (b) File an ADR Certification signed by parties and counsel; and
- (c) File either a Stipulation or ADR Process or a Notice of Need for ADR

1 Phone Conference.

2 2. The parties need not take any of the following actions, which currently are
3 required on or before January 25, 2011, until 30 days after the entry of the last filed of the orders
4 identified in the preceding paragraph:

5 (a) File a Rule 26(f) Report;

6 (b) Complete initial disclosures or state objections; and

7 (c) File a Case Management Statement.

8 3. The parties request that the Court continue the initial case management conference
9 in this matter, currently set for April 21, 2011 at 3:30 p.m., until a date to be set by the Court, but
10 no earlier than 60 days after the entry of the last filed of the orders identified in paragraph 1,
11 above.

1 Dated: January 11, 2011

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17 Attorneys for Defendant
18 Myriad Group AG

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20 PURSUANT TO STIPULATION, IT IS SO ORDERED.

21 IT IS FURTHER ORDERED THAT the Case Management Conference scheduled for
22 April 21, 2011 is CONTINUED to **June 1, 2011 at 2:30 p.m.** Prior to the date scheduled for
23 the conference, the parties shall meet and confer and prepare a joint Case Management
24 Conference Statement. The joint statement shall be filed no later than five (5) days prior
25 to the conference and shall comply with the Standing Order for All Judges of the Northern
26 District of California and the Standing Order of this Court. Plaintiff shall be responsible
27 for filing the statement as well as for arranging the conference call. All parties shall be on
28 the line and shall call (510) 637-3559 at the above indicated date and time.

1 IT IS SO ORDERED.

2 Date: 1-12-11

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4 Hon. Sandra Brown Armstrong
5 U.S. District Judge
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